



STATE OF MICHIGAN  
RUTH JOHNSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

May 30, 2018

**REVIEW OF NOMINATING PETITION**

**Paul Zyburski**

**Candidate for District Court Judge, 39<sup>th</sup> District, Regular Term/Non-Incumbent Position**

**NUMBER OF VALID SIGNATURES REQUIRED:** 200 signatures.

**TOTAL FILING:** 383 signatures.

**RESULT OF FACE REVIEW:** 371 valid signatures; 12 invalid signatures.

Total number of signatures filed:		383
Signer date errors (incomplete or incorrect date; dated after circulator):	-	11
Signature error (signature omitted):	-	<u>1</u>
Face valid signatures:	=	371

**TOTAL NUMBER OF SIGNATURES QUESTIONED UNDER CHALLENGE:** The challenger, Dennis Morse, challenges Mr. Zyburski's entire filing due to alleged defects in the heading of his nominating petitions.

**ANALYSIS OF CHALLENGE:** The challenge alleges that the heading is defective because it omits the phrase, "Regular Term/Non-Incumbent Position." Instead, the heading of Mr. Zyburski's nominating petition indicates that he is "a candidate for the office of **Judge 2025** (Title of Office/Term Expiration Date), **39<sup>th</sup>** (District, if any)." Note that there is only one position to be elected for the 39<sup>th</sup> District Court in 2018: a regular term non-incumbent position.

Non-incumbents seeking the office of District Court Judge are required to include the designation of office in the heading of their nominating petitions whenever a combination of two or more different types of incumbent, non-incumbent or new positions are available. Under the Michigan Election Law,

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing, consistent with section 467c(4):

- (a) An *unspecified* existing judgeship for which the incumbent judge is seeking election.
- (b) An *unspecified* existing judgeship for which the incumbent judge is not seeking election.

(c) A new judgeship.

\* \* \*

(4) *In a primary and general election for 2 or more judgeships **where more than 1 of the categories in subsection (2) could be selected***, a candidate shall apply to the bureau of elections for a written statement of office designation to correspond to the judgeship sought by the candidate. The office designation provided by the secretary of state shall be included in the heading of all nominating petitions. Nominating petitions containing an improper office designation are invalid.

MCL 168.467b (emphasis added). In compliance with this requirement, the Bureau of Elections provides “a written statement of office designation,” by publishing an instructional memo<sup>1</sup> which explains:

**OBTAINING INFORMATION ON APPROPRIATE OFFICE DESIGNATION:** Michigan election law requires that in instances where a candidate for Court of Appeals Judge, Circuit Court Judge, District Court Judge, Probate District Court or Probate Court Judge seeks election **in a district where there are a combination of “new” positions, “incumbent” positions and/or “non-incumbent” positions to fill**, the candidate must “apply to the Bureau of Elections for a written statement of office designation to correspond to the judgeship sought by the candidate.” The designations listed in the following charts are provided to fulfill this information requirement. (See *Petition Signature Requirements and Office Designations* below.)

The memo includes the following office designations: Regular Term – Incumbent Position; Regular Term – Non-Incumbent Position; Partial Term – Incumbent Position; Partial Term – Non-Incumbent Position; or New Judgeship. These designations are not required by statute, but are descriptions created by the Bureau of Elections for use when a combination of different types of positions will appear on the ballot for any particular court.

Here, the heading of Mr. Zybulski’s nominating petition reads in part, “**Judge 2025** (Title of Office/Term Expiration Date), **39<sup>th</sup>** (District, if any).” The challenge argues that the omission of the phrase “Regular Term/Non-Incumbent Position” renders the entire filing invalid. However, in view of the fact that only a single position for the 39<sup>th</sup> District Court is to be elected in 2018, the office designation is sufficient to place election officials, candidates and voters on notice that Mr. Zybulski is a candidate for the only position to be elected this year: The 39<sup>th</sup> District Court position expiring in January 2025 (i.e., a regular 6-year term).

Staff recommends that the challenge be rejected in its entirety.

**FINAL RESULT:** 371 valid signatures.

**STAFF RECOMMENDATION:** Determine petition sufficient.

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<sup>1</sup> Available at [https://www.michigan.gov/documents/sos/Regnoninc\\_Jud\\_510731\\_7.pdf](https://www.michigan.gov/documents/sos/Regnoninc_Jud_510731_7.pdf).